

1 DAVID A. ROSENBERG
2 Nevada Bar No. 10738
3 U.S. BANKRUPTCY TRUSTEE
4 5030 Paradise Rd., #B-215
5 Las Vegas, Nevada 89119
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8 darosenberg@7trustee.net

6 **UNITED STATES BANKRUPTCY COURT**

7 **DISTRICT OF NEVADA**

8 In re) Case No. BK-S 11-10099 BAM
9 PEREIRA, EMILIO B) IN PROCEEDINGS UNDER CHAPTER 7
10 PEREIRA, SANDRA A) Date: N/A
11 Debtor.) Time: N/A
12 _____)

13 **TRUSTEE'S EX PARTE MOTION TO DISMISS THE DEBTOR'S BANKRUPTCY UNDER**
14 **521(i) FOR FAILURE OF DEBTOR TO FILE REQUIRED SCHEDULES**

15 COMES NOW Panel Trustee, David A. Rosenberg, and for his instant Motion alleges and
16 states as follows:

- 17 1.) Debtor filed a Chapter 7 bankruptcy petition on 01/05/11, and an order for relief was
18 entered.
- 19 2.) Movant is duly authorized appointed and acting Chapter 7 Trustee in the above entitled
20 case.
- 21 3.) Debtor failed to file schedules within forty-five (45) days of the petition date as required
22 by 11 U.S.C. §521(a)(1) and (i)(1).
- 23 4.) A Copy of the case docket is attached hereto and incorporated herein as Exhibit 1.
- 24 5.) No Discharge has been entered in the case as of the date of the filing of this motion.
- 25 6.) An affidavit of Trustee, David A. Rosenberg, is attached hereto and incorporated herein as
26 Exhibit 2.

27 WHEREFORE the Trustee prays that;

- 28 1. The Bankruptcy proceeding be dismissed, for failure of the Debtor to file required

1 schedules, or;

2 2. For an Order extending the time to object to the Debtor's discharge for a period of at
3 least 60 days, and;

4 3. For such other further relief as the Court deems proper.

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7 DATED: May 10, 2011

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Submitted by: /s/ David A. Rosenberg

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David A. Rosenberg

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Bankruptcy Panel Trustee

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EXHIBIT 1

DebtEd, BAPCPA, FeeDueINST

**U.S. Bankruptcy Court
District of Nevada (Las Vegas)
Bankruptcy Petition #: 11-10099-bam**

Assigned to: BRUCE A. MARKELL
Chapter 7
Previous chapter 13
Voluntary
Asset

Date filed: 01/05/2011
Date converted: 02/17/2011

Debtor
EMILIO B PEREIRA
963 GOLDEN POPPY STREET
LAS VEGAS, NV 89110
SSN / ITIN: xxx-xx-9740

represented by **EMILIO B PEREIRA**
PRO SE

Joint Debtor
SANDRA A PEREIRA
963 GOLDEN POPPY STREET
LAS VEGAS, NV 89110
SSN / ITIN: xxx-xx-0389

represented by **SANDRA A PEREIRA**
PRO SE

Trustee
RICK A. YARNALL
701 BRIDGER AVE., #820
LAS VEGAS, NV 89101
(702) 853-4500
TERMINATED: 02/22/2011

Trustee
DAVID A. ROSENBERG
5030 PARADISE ROAD #B-215
LAS VEGAS, NV 89119
(702) 405-7312

U.S. Trustee
U.S. TRUSTEE - LV - 7, 7
300 LAS VEGAS BOULEVARD, SO.
SUITE 4300
LAS VEGAS, NV 89101

Filing Date	#	Docket Text
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01/05/2011	1	Chapter 13 Voluntary Petition. Fee Amount \$45.00. Request for fee to be paid in installments. Filed by EMILIO B PEREIRA, SANDRA A PEREIRA (lme) (Entered: 01/05/2011)
01/05/2011	2	Meeting of Creditors and Notice of Appointment of Trustee RICK A. YARNALL. 341 meeting to be held on 02/22/2011 at 10:30 AM at 341s - Foley Bldg,Rm 1500. Confirmation hearing to be held on 03/31/2011 at 01:30 PM at Foley Bldg,Third Floor. Objection to Dischargeability of Certain Debts due by 04/25/2011. Chapter 13 Proof of Claims due by 05/23/2011. (Entered: 01/05/2011)
01/05/2011	3	Statement of Social Security Number(s). This document contains sensitive information and cannot be viewed by the public. Filed by EMILIO B PEREIRA, SANDRA A PEREIRA (lme) (Entered: 01/05/2011)
01/05/2011	4	Application to Pay Filing Fee in Installments (lme) (Entered: 01/05/2011)
01/05/2011	5	Order to Pay Filing Fees in Installments (BNC) First Installment Payment due by 1/5/2011. Second Installment Payment due by 3/6/2011. Third Installment Payment due by 4/5/2011. Final Installment Payment due by 5/5/2011. (Related document(s) 4 Application to Pay Filing Fees in Installments) (lme) (Entered: 01/05/2011)
01/05/2011	6	Set Deficient Filing Deadlines. Incomplete Filings due by 1/19/2011. Summary of schedules due by 1/19/2011. Schedules A-J due by 1/19/2011. Declaration Re: Schedules due by 1/19/2011. Statement of Financial Affairs due by 1/19/2011. Chapter 13 Plan due by 1/19/2011. Chapter 13 Means Test Form 22C Due 1/19/2011 (lme) (Entered: 01/05/2011)
01/05/2011	7	Notice of Incomplete and/or Deficient Filing. (lme) (Entered: 01/05/2011)
01/05/2011	10	Receipt Number-1st Installment 199470, Fee Amount \$45.00. (Related document(s) 5 Order to Pay Filing Fees in Installments (BNC)) (pas) (Entered: 01/06/2011)
01/06/2011	8	Order Reassigning Case to Bankruptcy Judge BRUCE A. MARKELL. (tjr) (Entered: 01/06/2011)
01/06/2011	9	Previous Discharge. Chapter: 7. Case Number: 09-12342. Date Filed: 02/23/2009. District: nv. Date of Previous Discharge: 01/22/2010. (tjr) (Entered: 01/06/2011)
01/07/2011	11	BNC Certificate of Mailing (Related document(s) 2 Meeting of Creditors Chapter 13 (BNC)) No. of Notices: 3. Service Date 01/07/2011. (Admin.) (Entered: 01/07/2011)

01/07/2011	<u>12</u>	BNC Certificate of Mailing. (Related document(s) <u>7</u> Incomplete and/or Deficient Filing-Ch 13 (BNC)) No. of Notices: 1. Service Date 01/07/2011. (Admin.) (Entered: 01/07/2011)
01/07/2011	<u>13</u>	BNC Certificate of Mailing - pdf (Related document(s) <u>5</u> Order to Pay Filing Fees in Installments (BNC)) No. of Notices: 1. Service Date 01/07/2011. (Admin.) (Entered: 01/07/2011)
01/15/2011	<u>14</u>	Request for Special Notice Filed by RECOVERY MANAGEMENT SYSTEMS CORPORATION (SINGH, RAMESHWAR) (Entered: 01/15/2011)
02/17/2011	<u>15</u>	Notice of Voluntary Conversion to Chapter 7 Receipt Number 200217, Fee Amount \$25. Filed by EMILIO B PEREIRA, SANDRA A PEREIRA (wml) (Entered: 02/22/2011)
02/22/2011		Voluntary Conversion to Chapter 7 (wml) (Entered: 02/22/2011)
02/22/2011	<u>16</u>	Order: 1. Directing the Filing of a Final Report and Schedules of Post-Petition Unpaid Debts; 2. Setting Times to File Proofs of Claim for Post-Petition Unpaid Debts and for Claims Arising from the Rejection of Executory Contracts or Unexpired Leases and 3. Directing Notice (wml) (Entered: 02/22/2011)
02/22/2011		DAVID A. ROSENBERG added to case, Terminated Trustee RICK A. YARNALL (wml) (Entered: 02/22/2011)
02/22/2011	<u>17</u>	Meeting of Creditors 341 meeting to be held on 3/25/2011 at 08:30 AM 341s - Foley Bldg,Rm 1500 Deadline to Object to Debtors Discharge or to Challenge Dischargeability of Certain Debts is 5/24/2011 Proof of Claim due by 6/23/2011 (wml) (Entered: 02/22/2011)
02/23/2011	18	341 Meeting Off Calendar (YARNALL(gg), RICK) (Entered: 02/23/2011)
02/23/2011	<u>19</u>	Trustee's Opposition to Confirmation of Plan Combined with Trustee's Recommendation for Dismissal. (YARNALL, RICK) (Entered: 02/23/2011)
02/24/2011	<u>20</u>	BNC Certificate of Mailing (Related document(s) <u>16</u> Order Directing the Filing of a Final Report) No. of Notices: 2. Service Date 02/24/2011. (Admin.) (Entered: 02/24/2011)
02/24/2011	<u>21</u>	BNC Certificate of Mailing (Related document(s) <u>17</u> Meeting of Creditors Chapter 7 Asset Individual (BNC)) No. of Notices: 3. Service Date 02/24/2011. (Admin.) (Entered: 02/24/2011)

02/26/2011	<u>22</u>	BNC Certificate of Mailing - pdf (Related document(s) <u>19</u> Trustee's Opposition to Confirmation/Recommendation for Dismissal (BNC)) No. of Notices: 3. Service Date 02/26/2011. (Admin.) (Entered: 02/26/2011)
03/07/2011	<u>23</u>	Notice of Requirement to File Certificate of Completion of Instructional Course Concerning Financial Management. (Entered: 03/07/2011)
03/07/2011	24	Receipt Number-2nd Installment 200503, Fee Amount \$45. (Related document(s) <u>1</u> Voluntary Petition (Chapter 13) filed by Joint Debtor SANDRA A PEREIRA, Debtor EMILIO B PEREIRA, <u>5</u> Order to Pay Filing Fees in Installments (BNC)) (cms) (Entered: 03/08/2011)
03/10/2011	<u>25</u>	BNC Certificate of Mailing. (Related document(s) <u>23</u> Notice of Requirement to File Certification of Completion of Instructional Course Concerning Financial Management (BNC)) No. of Notices: 1. Service Date 03/10/2011. (Admin.) (Entered: 03/10/2011)
04/07/2011	<u>26</u>	Chapter 13 Standing Trustee's Final Report and Account. (YARNALL, RICK) (Entered: 04/07/2011)
04/08/2011	<u>27</u>	Order Discharging Chapter 13 Trustee (wml) (Entered: 04/08/2011)
04/08/2011	<u>28</u>	Notice of Filing of Chapter 13 Standing Trustee's Final Report and Account Chapter 13 (Converted) Trustee Discharge due 05/18/2011. (YARNALL, RICK) (Entered: 04/08/2011)
04/10/2011	<u>29</u>	BNC Certificate of Mailing. (Related document(s) <u>27</u> Order Discharging Chapter 13 Trustee (BNC)) No. of Notices: 4. Service Date 04/10/2011. (Admin.) (Entered: 04/10/2011)
04/10/2011	<u>30</u>	BNC Certificate of Mailing - pdf (Related document(s) <u>26</u> Chapter 13 Standing Trustee's Final Report and Account -Converted (BNC)) No. of Notices: 4. Service Date 04/10/2011. (Admin.) (Entered: 04/10/2011)
04/13/2011	<u>31</u>	BNC Certificate of Mailing - pdf (Related document(s) <u>28</u> Notice of Filing of Chapter 13 Standing Trustee's Final Report and Account -Converted (BNC)) No. of Notices: 1. Service Date 04/13/2011. (Admin.) (Entered: 04/13/2011)
05/09/2011	<u>32</u>	Order to Show Cause Why Case Should Not Be Dismissed for Failure to Pay Filing Fees Show Cause hearing to be held on 6/14/2011 at 02:30 PM at BAM-Courtroom 3, Foley Federal Bldg. (kmm) (Entered: 05/09/2011)

Transaction Receipt			
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EXHIBIT 2

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10 UNITED STATES BANKRUPTCY COURT
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15 DISTRICT OF NEVADA
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In re) Case No. BK-S 11-10099 BAM
10 PEREIRA, EMILIO B) IN PROCEEDINGS UNDER CHAPTER 7
11 PEREIRA, SANDRA A)
12) Date: N/A
13 Debtor.) Time: N/A

**AFFIDAVIT OF DAVID A. ROSENBERG IN SUPPORT OF TRUSTEE'S EX PARTE
MOTION TO DISMISS THE DEBTOR'S BANKRUPTCY UNDER 521(i) FOR FAILURE
OF DEBTOR TO FILE REQUIRED SCHEDULES**

DAVID A. ROSENBERG, being duly sworn on oath, deposes and says:

1. That I am the Chapter 7 Bankruptcy Trustee in the above-styled action and make this
Affidavit of facts from personal knowledge which are known to me except for those matters stated
upon information and belief, and as to those matters, I believe same to be true.

2. That I make this Affidavit in Support of the Trustee's Ex Parte Motion to Dismiss the
Debtor's Bankruptcy for Failure of the Debtor to file Required Schedules.

3. That as of the date of this filing, the Debtor has not complied with 11 U.S.C. §521(a)(1)
and (i)(1) and filed the required schedules within forty-five (45) days of the petition date.

4. That said schedules are necessary for the administration of the bankruptcy case.

FURTHER this Affiant sayeth naught.

DATE: May 10, 2011

Submitted by:

David A. Rosenberg, Bankruptcy Panel Trustee